

POLE LICENSE AGREEMENT

THIS AGREEMENT, effective as of this 7th day of ~~February~~ ^{March}, 2018, is made by and between Alabama Power Company, ("Licensor"), and Redacted Redacted ("Licensee").

WHEREAS, Licensee proposes to provide telecommunications, cable television, information service and/or other communication services ("Services") in the State of Alabama, and desires to attach and maintain cables, wires and associated equipment owned by Licensee for provision of such Services on Licensor's poles in accordance with the "Act" (as defined below); and

WHEREAS, Licensor is required by the Act, under certain circumstances, to provide mandatory access to its distribution poles to telecommunications carriers and cable television systems; and,

WHEREAS, to fulfill its obligations under the Act, Licensor will allow the installation of Licensee's Attachments (as defined below) on its distribution poles subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the parties hereto agree as follows:

1. Definitions

- i. The term "**Act**" means the Pole Attachment Act, 47 U.S.C. §224, as amended by Section 703 of the Telecommunications Act of 1996, and any future amendments thereto.
- ii. The term "**Affiliate**" means an entity that owns, is owned by, or is under common ownership with Licensor or Licensee.
- iii. The term "**Attachment**" means overhead cables, wires, and associated equipment or facilities of Licensee that are attached to distribution poles of Licensor in accordance with the terms and conditions of this Agreement. The term "Attachment" does not include, among other things, any wireless antenna and associated equipment, video surveillance equipment, or camera.
- iv. The term "**Codes and Laws**" refers collectively to all applicable terms and provisions of the current revision of the National Electrical Safety Code, any successor codes, and all applicable statutes, regulations, ordinances, rules or orders issued by any authority having jurisdiction over Licensor's distribution poles and attachments thereto, including without limitation rules and regulations promulgated by the Occupational Safety and Health Administration.
- v. The term "**Communications Space**" means the space on Licensor's poles above minimum ground clearance and below the Communication Worker's Safety Zone (as defined by the NESC) within which Licensee may place its Attachments.

- vi. The term “**Contract Year**” means each twelve-month period between July 1 and June 30 that this Agreement is in effect after the first Contract Year. The first Contract Year shall run from the effective date of the Agreement to the following June 30.
- vii. The term “**Drop Pole**” means a pole used to support Licensor’s service drop conductors.
- viii. The term “**Indemnified Parties**” refers to Licensor, its present and future affiliates, and its representatives, agents, officers and employees of each of them. For purposes of this Agreement, the term shall also include any contractor, electric utility or other entity authorized by Licensor to perform work on its poles on its behalf.
- ix. The term “**Licensee**” refers to the entity that has been granted access to Licensor’s poles under the terms of this Agreement.
- x. The term “**Licensee Entities**” refers to Licensee, contractors and subcontractors, and the representatives, agents, officers and employees of each of them.
- xi. The term “**Licensor**” refers to Alabama Power Company.
- xii. The term “**NESC**” refers to the current revision of the National Electrical Safety Code.
- xiii. The term “**Policies and Procedures**” shall refer to Licensor’s policies and procedures described in Section 13.
- xiv. The term “**Pre-existing Attachment**” refers to Attachments currently owned by Licensee that were installed on Licensor’s poles by Licensee or any other entity prior to the execution of this Agreement.
- xv. The term “**Post-attachment Inspection**” refers to an inspection by Licensor of Licensee’s installation of new Attachments, or modification of Attachments, that have otherwise been approved by Licensor in accordance with this Agreement.
- xvi. The term “**Service Drop**” refers to the overhead conductors between the Licensee’s existing Attachment and the building or structure being served by Licensee.
- xvii. The term “**Specifications**” refers to the specifications for Attachments provided to Licensee by Licensor.

2. Authorized Attachments

a. Licensor hereby grants to Licensee access rights to make Attachments to certain of Licensor’s distribution poles in accordance with the terms and conditions hereof and applicable law. Licensee shall provide written notification to Licensor within 30 days after the initial offering

of telecommunications services over any of its Attachments, whether directly or through an affiliate or through a third-party overlasher or lessee.

b. Attachment to Licensor's distribution poles may be made in accordance with the provisions of Sections 3 through 7 below. Under no circumstances is Licensee authorized to attach aerial conduit to Licensor's distribution poles. Licensee is expressly prohibited from placing any Attachment above the Communications Space and from placing any Attachment on transmission poles and facilities of Licensor. For purposes of this Agreement, a transmission pole is one on which an electric power line having voltage of 40kV or higher is attached, including all poles used as guy stub poles for 40kV or higher lines. If the electric line is less than 40kV, it is a distribution line.

c. All Attachments made by Licensee shall be made and maintained at Licensee's sole expense.

d. Licensee acknowledges that the requirements of this Agreement (other than the requirement of requesting to attach), including but not limited to the requirement that all Attachments comply with Codes and Laws and Specifications, shall govern Pre-existing Attachments. Pre-existing Attachments shall be maintained in accordance with the above requirements and specifications that were in effect at the time when the Attachment was made consistent with NESC 013.B.

e. Service Drops shall be installed in accordance with all Codes and Laws and Specifications.

3. Attachment Authorization Procedure

a. Licensee shall make application to Licensor before making or allowing to be made any Attachment or modifications to an Attachment, except in the case of routine maintenance or Service Drops as provided for in subsection (b). Under no circumstances shall Licensee attach any facilities to a distribution pole of Licensor unless Licensee has first: (i) contacted Licensor to obtain a copy of the Policies and Procedures; (ii) submitted an application and a service area map (see Section 6 below) to Licensor that adequately identifies the location of each specific pole to which Licensee intends to attach; (iii) submitted payment of applicable costs including applicable modification costs; and (iv) received authorization to attach from Licensor. Attachments not made in accordance with this Section 3 shall be unauthorized attachments.

b. Service Drops may be attached to service or Drop Poles without prior notification so long as all provision of the Codes and Laws and Specifications are met. All Service Drops attached to service or Drop Poles for which application is not made shall be accumulated by area and submitted monthly with location address to the same Licensor engineering office to which applications for that area are submitted. Licensee shall also submit an application for all such Service Drops along with the itemized listing of Service Drop Attachments.

c. After Licensee has provided the information required in a.(ii) above, Licensor shall make a field inspection of each distribution pole to which Licensee proposes to make its Attachments and shall determine whether modifications of any of Licensor's distribution poles (including without limitation rearrangements of facilities on existing poles) are required to

accommodate the proposed Attachments of Licensee in compliance with Codes and Laws and Specifications and the other requirements contained in this Agreement. Licensor reserves its statutory right under the Act to deny, on a non-discriminatory basis, any Attachment to its distribution poles to the extent allowed by 47 U.S.C. § 224(f)(2) and any applicable law. Any denial shall be in writing, stating the reasons for the denial and setting forth a process of appeal. Licensee reserves its statutory right to contest any denial of access pursuant to 47 U.S.C. § 224 and any applicable law.

d. Within sixty (60) days (unless agreed to otherwise by both parties) after Licensee has provided written notice of attachment or completion of modification, Licensor may perform a Post-attachment Inspection at Licensee's expense. Licensor's election to inspect Attachments is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensor's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement.

4. Attaching – Modifications Not Required

Following the pre-attachment inspection, Licensor will notify Licensee of the distribution pole lines to which Licensee's Attachments may be made without modifications. Upon payment of all costs identified in the Policies and Procedures, Licensor will notify Licensee that it may proceed with attaching its facilities to such distribution poles. Licensee shall be responsible for making its own Attachments and for performing its own guying and marking for its Attachments to Licensor's distribution poles. Licensee shall install its own anchors and its own guys; Licensee is strictly prohibited from using Licensor's anchors.

5. Attaching - Modifications Required

In cases where Licensee desires to make Attachments on any distribution poles in a pole line of Licensor which Licensor has determined require reasonable modifications to support Licensee's proposed Attachments, Licensor shall notify Licensee of the need for, the nature of, and the cost of such modifications necessary to support the proposed Attachments, as described in Licensor's Policies and Procedures. If the modifications require expanding the capacity of one or more distribution poles, Licensor will also notify Licensee whether Licensor agrees, in its sole discretion, to make the requested modification. Nothing in this Agreement shall in any way be construed as a waiver of Licensor's rights under 47 U.S.C. § 224 or applicable law to deny access for reasons of insufficient capacity, as well as safety, reliability or generally applicable engineering concerns or to deny modification on the grounds that such modifications constitute an expansion of capacity.

If Licensee does not wish to proceed with the modifications after receiving notice, then Licensee will pay Licensor the costs described in the Policies and Procedures. If Licensee does wish to make the proposed Attachments, it shall pay Licensor in advance the work order cost of Licensor to make the modifications. After Licensee has followed these procedures and made payment, Licensor shall make its modifications within a reasonable period of time. After the original work order cost is submitted by Licensor to Licensee, if there are any changes in scope of the work due to changes by Licensee or changes beyond Licensor's reasonable control, Licensor shall submit a revised work order cost to Licensee and Licensee shall pay the revised amount

before the modifications will be made. Costs to be paid by Licensee for modification work shall include, but not be limited to, all those incurred by Licensor in connection with transferring or rearranging facilities to accommodate the attachments of Licensee, including without limitation applicable taxes and overhead costs. Additionally, Licensee will pay the owner or owners of any other facilities attached to said distribution poles for any expense incurred by it or them in transferring or rearranging said facilities. Licensee shall not make Attachment(s) to any pole in the pole line until the necessary agreed-upon modifications to all those poles in the pole line have been completed.

6. Service Area Maps

Licensee is responsible for ensuring that Licensor is provided up-to-date service area maps for all Attachments. With respect to Pre-existing Attachments, Licensee shall provide Licensor with service area maps within 120 days of the date of this Agreement, or such other time period within which the parties mutually agree. In the event Licensee purchases or otherwise acquires the assets of another attacher which include attachments to Licensor's poles, Licensee shall, within sixty (60) days of such purchase, submit service area maps to Licensor. In addition, Licensee shall update such maps as necessary, but no less often than by July 1 of every fourth year.

Licensee shall submit facilities location maps with its applications to install Attachments, in accordance with the Policies and Procedures. Should Licensor provide the maps to Licensee, under the circumstances described in the Policies and Procedures, the amount to be paid by Licensee for the maps shall be as set forth in Exhibit B.

7. Marking of Attachments

Licensee shall mark or tag every Attachment in accordance with the Policies and Procedures and shall maintain marks and tags in readable condition. New attachments shall be marked or tagged at the time they are placed on the pole. All Pre-existing Attachments shall be marked or tagged within one-hundred and eighty (180) days of the date of this Agreement.

8. Coordination with Joint Use Attachments

a. Licensor is a party to joint use agreements with various telephone companies that own poles throughout its service area. Distribution poles used jointly by Licensor and any telephone company under one of the joint use agreements are referred to as "joint use distribution poles", on which each joint use party is allocated certain pole space. Under the joint use agreements the telephone company is allocated the exclusive use of certain space (usually two and one half feet), measured upward from the lowest point of attachment required to provide NESC and/or Alabama Department of Transportation minimum clearance above ground.

b. Licensee's Attachment shall be mounted above the uppermost existing communications cable and shall be separated by the space required by the NESC and Licensor's Specifications. At times there may not be sufficient usable space on a joint use distribution pole for Licensee to place its Attachments within the Communication Space but outside the space allocated exclusively for use by the telephone company. In no event shall Licensee place its Attachments within such allocated space on the joint use distribution pole without proper permission of the party which has been allocated the space. If such permission is granted to

Licensee by the telephone company, and at some later date the party to which the space is allocated needs to utilize the space occupied by Licensee's Attachment, Licensee either shall remove its Attachment or shall pay Licensor's cost to replace the pole or make other required modifications.

9. Coordination with Attachments of other Entities

Where Licensee desires to attach to a pole or poles already hosting attachments of other parties, it is essential that all parties communicate and coordinate (1) to maintain sound engineering practice and construction standards, and (2) for the fair allocation of costs. Corrections of existing safety violations and cost responsibility or sharing for any such corrections will be governed by Sections 5 and 10.

10. Compliance with Codes and Laws

Licensee shall be responsible for knowing and understanding the requirements of the Codes and Laws and the requirements of this Agreement, including (without limitation) the Specifications, and for ensuring that all such requirements are met throughout the term of this Agreement. Should there be any instance in which either the Codes and Laws or the Specifications is more stringent than the other, Licensee shall comply with the more stringent of the two to the extent consistent with Section 013.B of the NESC. Licensee shall periodically inspect its Attachments, including without limitation its guying and other facilities, to assure compliance with the requirements of the Codes and Laws and this Agreement. Licensee shall correct any safety violations that are caused by Licensee within thirty (30) days of Licensee receiving notice of such violations (or such longer period agreed to by Licensor), except for such violations creating a danger to persons or property, which must be corrected immediately upon discovery. Should Licensee fail to do so, Licensor may cure the non-compliance, and Licensee shall pay Licensor the costs of its doing so. To the extent that the cause of a violation cannot be established, then the cost of correcting the violation shall be shared by each attacher on the pole (including the Licensor and any joint user) whose facilities are involved in the violation at issue. Failure by Licensee to comply with the Codes and Laws and the requirements of this Agreement shall constitute a default of this Agreement.

11. Licensor's Right to Inspect

a. Licensor shall have the right, but shall not be obligated, to inspect each Attachment made by Licensee on its distribution poles subsequent to the date of this Agreement and to make periodic inspections of any of Licensee's Attachments for any reason, including (without limitation) identifying violations of the NESC or the Specifications and of any other generally applicable safety codes, and identifying unauthorized attachments, but not for any purpose of or reserved right of controlling the methods and manner of the performance of Licensee's business activities. Licensor's election to inspect Attachments is not, and shall not be construed as, the assumption or undertaking of any duty, responsibility or liability on Licensor's part with respect to Licensee or its facilities that is not expressly set forth in this Agreement. Any costs Licensor incurs for periodic inspections shall be recovered under the annual attachment fees assessed under Sections 20 and 22. Licensee shall pay for special inspections in accordance with Exhibit E. Licensor's right to make periodic inspections and any other inspection made pursuant to such right